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Attorneys for Plaintiff LUIS LERMA

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

LUIS LERMA, On Behalf of Himself and All  
other Similarly Situated California Residents,

Plaintiff,

v.

SCHIFF NUTRITION INTERNATIONAL,  
INC., a Delaware Corporation, and SCHIFF  
NUTRITION GROUP, INC., a Utah  
Corporation

Defendants.

CASE NO.: 11 CV 1056 JAH (MDD)

CLASS ACTION

**UNOPPOSED MOTION FOR  
LEAVE TO FILE THIRD AMENDED  
COMPLAINT**

1 Plaintiff Luis Lerma, On Behalf of Himself and All Other Similarly Situated California  
 2 Residents, respectfully moves the Court pursuant to Rule 15(a)(2) of the Federal Rules of Civil  
 3 Procedure for leave to file Plaintiff's Third Amended Complaint. The proposed Third Amended  
 4 Complaint conformed for filing is attached herewith as Exhibit A and a copy of the Third Amended  
 5 Complaint, redlined to reflect changes from the current Complaint, is attached as Exhibit B. As  
 6 grounds for this Motion, Plaintiff states as follows:

7 1. On June 13, 2011, Plaintiff filed his First Amended Class Action Complaint ("the  
 8 Lerma Action") against Defendant Schiff Nutrition International, Inc. ("Schiff International");

9 2. On August 3, 2011, Defendant Schiff International answered Plaintiff's First  
 10 Amended Class Action Complaint, wherein it admitted that "through its wholly-owned subsidiary,  
 11 Schiff Nutrition Group, Inc., it manufactures, distributes, markets and sells the Move Free®  
 12 Advanced products." Answer, ¶19. Further, Defendant Schiff International included as a defense  
 13 that Plaintiff had failed to join a "necessary and indispensable" party. Answer, ¶85;

14 3. On September 16, 2011, Plaintiff filed his Second Amended Complaint adding  
 15 Defendant Schiff Nutrition Group, Inc. ("Schiff Nutrition Group") as an additional defendant;

16 4. On October 4, 2011, Defendant Schiff Nutrition Group answered the Second  
 17 Amended Complaint;

18 5. On December 15, 2011, Plaintiff Pearson filed a Class Action Complaint in the  
 19 Northern District of Illinois against Defendants, *Pearson v. Schiff Nutritional Int'l, et al.*, 1:11-cv-  
 20 08914 (N.D. Ill.) ("The Pearson Action"), alleging similar claims to the Lerma Action;

21 6. The parties have participated in two mediation sessions before Justice Wiener on  
 22 November 15, 2011 and February 2, 2012 and scheduled a third mediation before Justice Wiener  
 23 on March 15, 2012 to continue settlement efforts in both the Lerma and Pearson Actions;

24 7. On February 27, 2012, Plaintiff Pearson voluntarily dismissed his Complaint;

25 8. On March 8, 2012, after meeting and conferring with Defendants, Plaintiff Lerma  
 26 prepared a Third Amended Complaint incorporating Plaintiff Pearson and his claims against  
 27 Defendants.

28 9. Plaintiff believes it would be most efficient to bring all the parties and the claims in

1 front of one court in anticipation of the forthcoming mediation.

2 10. Plaintiff provided Defendants with an advanced draft of the proposed Third  
3 Amended Complaint. Defendants do not object to the Court granting Plaintiff leave to file the  
4 proposed Third Amended Complaint.

5 WHEREFORE, Plaintiff respectfully requests entry of an order permitting him to file his  
6 Third Amended Complaint.

7 Dated: March 12, 2012

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& BALINT, P.C.

8 By /s/Todd D. Carpenter

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24 Attorneys for Plaintiff LUIS LERMA  
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26  
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28

**CERTIFICATE OF SERVICE**

I hereby certify that on March 12, 2012, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the Electronic mail notice list, and I hereby certify that I have mailed the foregoing document via the United States Postal Service to the non-CM/ECF participants indicated on the Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on March 12, 2012.

By: /s/Todd D. Carpenter  
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